

**UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

<b>In Re:</b>	)	<b>Case No:</b>	<b>21-01256</b>
<b>Virginia Maxwell</b>	)		
	)	<b>Chapter:</b>	<b>Chapter 13</b>
<b>Debtor</b>	)		
	)	<b>Judge:</b>	<b>David D. Cleary</b>

**NOTICE OF MOTION**

TO: See attached list

PLEASE TAKE NOTICE that on February 8, 2021 at 1:30 PM, I will appear before the Honorable David D. Cleary, or any judge sitting in that judge's place, and present the motion of Virginia Maxwell to compel delivery, a copy of which is attached

**This motion will be presented and heard electronically using Zoom for Government.** No personal appearance in court is necessary or permitted. To appear and be heard on the motion, you must do the following:

**To appear by video,** use this link: <https://www.zoomgov.com/>. Then enter the meeting ID and password.

**To appear by telephone,** call Zoom for Government at 1-669-254-5252 or 1-646-828-7666. Then enter the meeting ID and password.

**Meeting ID and password.** The meeting ID for this hearing is 161 122 6457 and the password is Cleary644. The meeting ID and password can also be found on the judge's page on the court's website.

**If you object to this motion** and want it called on the presentment date above, you must file a Notice of Objection no later than two (2) business days before that date. If a Notice of Objection is timely filed, the motion will be called on the presentment date. If no Notice of Objection is timely filed, the court may grant the motion in advance without a hearing.

**By:** /s/ Dale Allen Riley

Dale Allen Riley  
Geraci Law L.L.C.  
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**UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

<b>In Re:</b>	)	<b>Case No:</b>	<b>21-01256</b>
<b>Virginia Maxwell</b>	)		
	)	<b>Chapter:</b>	<b>Chapter 13</b>
<b>Debtor</b>	)		
	)	<b>Judge:</b>	<b>David D. Cleary</b>

**CERTIFICATE OF SERVICE**

I, Dale Allen Riley, certify that I served a copy of this notice and the attached motion on each entity shown on the attached list at the address shown and by the method indicated on the list on January 29, 2021 at 4:05 PM.

**UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

<b>In Re:</b>	)	<b>Case No:</b>	<b>21-01256</b>
<b>Virginia Maxwell</b>	)		
	)	<b>Chapter:</b>	<b>Chapter 13</b>
<b>Debtor</b>	)		
	)	<b>Judge:</b>	<b>David D. Cleary</b>

**LIST OF PARTIES SERVED**

Marilyn O. Marshall, 224 S. Michigan Ave. #800 , Chicago, IL 60604

Office of the U.S. Trustee, 219 S. Dearborn, Suite 873, Chicago, Illinois 60604

Virginia Cherie Maxwell, 4816 W 91st , Oak Lawn, IL 60453

Nissan Motor Acceptance c/o Illinois Corporation Service C, 801 Adlai Stevenson Dr, Springfield, IL 62703

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION**

<b>In Re:</b>  <b>Virginia Maxwell</b> <b>Debtor</b>	) ) ) ) )	<b>Case No: 21-01256</b>  <b>Chapter: Chapter 13</b>  <b>Judge: David D. Cleary</b>
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**MOTION TO COMPEL DELIVERY UNDER 11 USC 542(A)**

NOW COMES the Debtor, Ms. Virginia Maxwell (the “Debtor”), by and through her attorneys, Geraci Law L.L.C., to present her **MOTION TO COMPEL DELIVERY UNDER 11 USC 542(A)**, and states as follows:

1. This Court has jurisdiction over this proceeding pursuant to 28 U.S.C. 1334 and this is a “core proceeding” under 28 U.S.C. 157(b)(2).
2. The Debtor filed her Petition for Relief and plan under Chapter 13 of the U.S. Bankruptcy Act on 01/29/2021.
3. Prior to the filing of her petition the Debtor’s 2014 Nissan Sentra was repossessed by Nissan Motor Acceptance on or around 1/25/2021.
4. Pursuant to 11 USC 542(a) and 1303, any entity in possession, custody or control of property of the estate is required to return it to the debtor unless it is of “inconsequential value or benefit to the estate”.
5. The Debtor’s vehicle is used for transportation to and from work, as well as other necessary transportation for the Debtor and is necessary for the completion of her Chapter 13 Plan. Accordingly, it is not of inconsequential value or benefit.
6. Since the vehicle has value to the estate, Nissan Motor Acceptance is required to return it to the Debtor.

7. Although Federal Rule of Bankruptcy Procedure 7001(a) requires an adversary “to recover money or property”, the term “recover” is not used in 11 USC 542, while it is used in 11 USC 550.
8. Instead 11 USC 542 uses the term “deliver”. It is a principle of statutory construction that Congress acts intentionally when using language in one section of a statute and not in another. *Russello v. United States*, 464 U.S. 16, 23 (1983). As a result the adversary requirement to recover property is not applicable to actions under 11 USC 542.

WHEREFORE THE DEBTOR, Ms. Virginia Maxwell, respectfully requests this Honorable Court enter an order compelling Nissan Motor Acceptance to deliver the Debtor’s 2014 Nissan Sentra to her and for any other relief that this Court deems appropriate.

**By:** /s/ Dale Allen Riley  
Dale Allen Riley

**Attorneys for the Debtor**

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Chicago, Illinois 60603  
(Ph): 312.332.1800 (Fax): 877.247.1960